

**SECTION I: PUBLIC INFORMATION
(QUESTIONS 1 THROUGH 47)**

Personal Information

1. Full Name:

1. Bonnie Anne Bulla

2. Have you ever used or been known by any other legal name? ____ If so, state name and reason for the name change.

2. No.

3. Work Address:

**3. Office of the Discovery Commissioner, Regional Justice Center, 200 Lewis Avenue,
5th Floor, Las Vegas, NV 89155.**

4. How long have you been a continuous resident of Nevada?

4. Since 1987.

5. Age:

(NRS 3.060 states that a district judge must be at least 25 years old.)

5. Fifty-two (52) years old.

Employment History

6. Using the format provided in Attachment "A" please start with your current employment or most recent employment, self-employment, and periods of unemployment for the 20 years immediately preceding the filing of this Application.

6. See Attachment A.

Educational Background

7. List names and addresses of high schools, colleges and graduate schools (other than law school) attended; dates of attendance; certificates or degrees awarded; reason for leaving.

7. McClintock High School, Tempe, Arizona, 1976-80

High School Diploma with highest honors

Reason for leaving: Graduated

Arizona State University

1980-84

B.S. Economics (summa cum laude)

Reason for leaving: Graduated

Mesa Community College (10 credits) (uncertain of dates of attendance; took summer school classes while attending ASU)

8. Describe significant high school and college activities including extracurricular activities, positions of leadership, special projects that contributed to the learning experience.

8. Significant High School Activities:

1976-80: Member of the Speech and Debate Team
1978-79: On the staff of Guidon, the high school newspaper
1980: First Place Girls Extemporaneous Speaker for Arizona National Forensic League;
1980-81: Teenager of the Year (Tempe Elks)
1980: McClintock High School Scholarship Award; one of three Commencement Speakers

Significant College Activities:

1980-83: Member of the Arizona State University Debate Team;
1981-82: Outstanding Junior Division Debater (Arizona State University)
1983: Internship with the Arizona Governor's Office of Business and Economic Development
1984: Phi Beta Kappa

9. List names and addresses of law schools attended; degree and date awarded; your rank in your graduating class; if more than one law school attended, explain reason for change.

9. Arizona State University (nka Sandra Day O'Connor College of Law)
1001 S. Mill Ave., Tempe, Arizona 85281 (main campus)
Juris Doctorate 1987 (unranked)

10. Indicate whether you were employed during law school, whether the employment was full-time or part-time, the nature of your employment, the name(s) of your employer(s), and dates of employment.

10. Employed as a summer law clerk after first and second years of law school (1985 and 1986) for the law firm of Carson Messinger in Phoenix, Arizona.

11. Describe significant law school activities including offices held, other leadership positions, clinics participated in, extracurricular activities.

11. In the Spring of 1987, during my third year of law school, I participated in the Criminal Process Clinic in conjunction with the City of Mesa, Arizona, where I had the opportunity to prosecute misdemeanors.

I also wrote a light-hearted column for The Devil's Advocate (the law school newspaper) under the by-line "Ms. Demeanor."

Law Practice

12. State the year you were admitted to the Nevada Bar.

12. 1987

13. Name states (other than Nevada) where you are or were admitted to practice law and your year of admission.

13. N/A

14. Have you ever been suspended, disbarred, or voluntarily resigned from the practice of law in Nevada or any other state? If so, describe the circumstance, dates, and locations.

14. No

15. Estimate what percentage of your work over the last 5 years has involved litigation matters, distinguishing between trial and appellate courts. **For judges**, answer questions 16-20 for the 5 years directly preceding your appointment or election to the bench.

15. Before being appointed Discovery Commissioner, nearly 95% of my work involved litigation matters and approximately 5% involved administrative hearings. Nearly all of my work (99%) was at the trial court level, and the remainder (1%) at the appellate level.

16. Estimate percentage of time spent on (1) domestic/family and juvenile law matters, (2) civil litigation, (3) criminal matters, and (4) administrative litigation.

16. Nearly 95% of my work involved civil litigation matters, and 5% administrative hearing work that arose out of the underlying related cases.

17. In the past 5 years, what percentage of your litigation matters involved cases set for jury trials vs. non-jury trials?

17. Virtually 100% of my cases were set for jury trials.

18. Give the approximate number of jury cases tried to a conclusion during the past 5 years with you as lead counsel. Give the approximate number of non-jury cases tried to a decision in the same period.

18. To the best of my recollection as it relates to the timeframe in question, I tried one case to verdict and the other resulted in a mistrial by opposing counsel where the related appeal was ultimately dismissed by the Nevada Supreme Court.

19. List courts and counties in any state where you have practiced in the past 5 years.

19. Nevada Supreme Court (practiced at the briefing level); Eighth Judicial District Court in Clark County; Second Judicial District Court in Washoe County; United

States District Court for the District of Nevada (primarily involving 42 USC 1983 actions); United States Bankruptcy Court for the District of Nevada (to lift automatic stays in order to proceed against insurance proceeds)

20. List by case name and date the five cases of most significance to you (not including cases pending in which you have been involved), and list or describe:
- a. case name and date,
 - b. court and presiding judge and all counsel
 - c. the importance of each case to you and the impact of each case on you,
 - d. your role in the case.

20. Due to the nature of my representation of healthcare professionals in several of the cases discussed below, I am respectfully declining to address the specifics asked for in parts "a" and "b" of this question, save for Case 3 which was tried to verdict. Although some of the information requested is public record, upon thoughtful consideration and mindful of *NRPC 1.9(c) (Duties to Former Clients)*, I do not believe it is fair to my former clients to have their cases resurrected and discussed in a public forum when confidentially is at issue. However, in response to this question I will answer subsections (c) and (d) below.

Case No. 1: The Importance of Alternative Dispute Resolution

c. I represented a physician in a case that taught me there are alternative ways to resolve disputes which may better serve the client's interests, other than the court system. The case involved the failure to diagnose a rare neurological condition. Although it could have been presented to a jury, because of potentially adverse publicity, time constraints, and other factors, the case was resolved successfully by private binding arbitration. I have applied this lesson as a judicial officer, bringing to the cases I hear an appreciation that certain disputes are better resolved in alternative forums. The Courts can assist in this process by encouraging early dispute resolution and mandatory settlement conferences.

d. Primary handling attorney.

Case No. 2: Arbitration is not for every case

c. This case also involved a failure by several physicians to diagnose a medical condition. The matter was heard by a distinguished panel of arbitrators. In retrospect, however, this case may have been one that would have benefited from being tried before a jury, where the parties would have had the opportunity to present their claims and defenses in greater detail. While the considerations for resolving this case were similar to those in Case 1 above, Case 2 clarified for me the inherent value of our jury system for certain types of cases. This has proved to be beneficial to me when I have conducted mandatory settlement conferences by allowing me to effectively communicate the relative risks and benefits of trial versus arbitration versus settlement.

d. Primary handling attorney.

Case No. 3: The Importance of Jury Selection

a. *Monika Szijarto vs. Anthony Borgia, DPM, et al*, filed 11/17/2001, tried 2005

b. Eighth Judicial District Court, Judge Douglas Herndon; Plaintiff's counsel: Robert Martin and Noah Allison; Defendant's counsel: Robert Goldstucker and Bonnie Bulla

c. In this jury trial, I came to fully understand the importance of the mechanics of jury selection and raising proper objections during *voir dire*. I also came to appreciate the role the judge plays in closely monitoring this process. Giving proper admonishments to potential jurors protects against improper questioning. In this way, the court can help assure that jurors are questioned clearly and concisely, and evaluated in a manner that promotes fairness for all parties.

d. Second chair; conducted *voir dire*.

Cases No. 4 and 5: The Importance of Due Process and Fair Hearings

c. In my practice I handled a variety of matters before the State Board of Nursing, the Pharmacy Board, and the Board of Medical Examiners. There are two cases which stand out not only because of their outcomes, but also because they underscored the necessity for due process in administrative hearings.

The first case had a positive outcome, and the license of a qualified and caring professional was maintained. Due process safeguards in place at the administrative level enabled the defense to effectively present compelling facts which permitted the practitioner's care to be favorably evaluated by the examining board.

The outcome of the second case was not as favorable to the practitioner, and resulted in imposition of license restrictions. The same procedural safeguards as in the first case were in place here, but the facts and circumstances warranted a different result.

These two examples demonstrate that every case needs a full and fair hearing on its own merits. The fair hearing process assures that qualified practitioners are not unjustly penalized for reasonable treatment decisions which may not have the best outcomes. However, this process also allows for remedial measures to be imposed when warranted where public safety is a concern.

d. Primary handling attorney.

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21. Do you now serve or have you previously served as a mediator, an arbitrator, a part-time or full-time judicial officer, or a quasi-judicial officer? To the extent possible, explain each experience.

21. I am currently a Court Hearing Master for the Eighth Judicial Court, aka Discovery Commissioner. This position is classified as a judge, pursuant to NRS 1.428(5). As Discovery Commissioner I conduct on average between fifty and fifty-five hearings per week, including motion practice and issuing scheduling orders. I hear a variety of discovery disputes, as more fully described in response to Question 45, below. Once a motion is decided, either I or the attorneys involved in the motion prepare the Report and Recommendations from the hearing.

When requested by the Court, I cover the Arraignment Calendar where I take pleas for crimes such as grand larceny, sexual assault, assault and battery, domestic violence, lewdness with a minor, and weapons and drug-related offenses; and enter stipulated sentences.

I conduct Mandatory Settlement Conferences when asked by the Court.

I am also one of the hearing masters whom the District Court has selected to hear pre-and post-termination hearings for District Court employees. This process also requires me to issue written decisions.

Prior to becoming Discovery Commissioner, I served in a quasi-judicial capacity for several years as a member of the Medical Dental Screening Panel. I reviewed party submissions, including expert affidavits and medical records, in order to determine whether or not malpractice had occurred within a reasonable degree of medical probability.

22. Describe any pro bono or public interest work as an attorney.

22. During the time I was in private practice, I volunteered to assist the homeless and working poor with legal issues involving social security disability and housing-related issues. As a former board member of the Amazing Grace Ministry -- an outreach ministry to the homeless -- I provided input on a variety of issues dealing with the operation of a non-profit organization.

23. List all bar associations and professional societies of which you are or have been a member. Give titles and dates of offices held. List chairs or committees in such groups you believe to be of significance. Exclude information regarding your political affiliation.

23. I have been and am still a member of several bar associations and professional societies including:

**Phi Beta Kappa;
State Bar of Nevada;
Clark County Bar Association;
Defense Research Institute (past);
Association of Defense Counsel of Northern California and Nevada(past);**

**American Bar Association/Young Lawyers Division (past);
American Bar Association (trial membership);
The Social Register of Las Vegas (past);
Howard D. McKibben Chapter of the American Inns of Court (one of the
pupils of the 1987 inaugural class, and then a Barrister, and currently a
Master);
American Trial Lawyers Association (nka American Association of Justice
(past));
Nevada Trial Lawyers Association (nka Nevada Justice Association (past));
Southern Nevada Association of Women Attorneys.**

**President of the Southern Nevada Association of Women Attorneys ('88-'89);
Executive Committee of the ABA Young Lawyers' Division:
District Representative for Nevada and Utah - '90-'92
Editor of The Affiliate (YLD newspaper) - '92-'93
Clerk of the Assembly (officer) -- '96-'97
Speaker of the Assembly (officer) -- '97-'98;**

**Currently, I am a member of the Rules Committee for the Eighth Judicial District
Court.**

24. List all courses, seminars, or institutes you have attended relating to continuing legal education during the past 5 years. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge?

24. I am currently in compliance with the continuing legal education requirements. I have taught, as well as attended a significant number of CLE courses during the last five years. I have done my best to list all of them. I do not always turn in credit for courses that I teach because I often repeat them for different legal groups, and because of the sheer volume of CLEs that I participate in every year.

2014:

**1/31/14: Practical Tips for Class Room Professionalism and Decorum (teaching)
2/6/14-2/8/14: NITA (National Institute for Trial Advocacy) Deposition Skills
(lecture and teaching)
4/23/14: Nevada District Court Judges Training on Medical Malpractice (panel
presentation and teaching)
6/3/14: The Need for a Court of Appeals (lecture)
6/5/14: Discovery Commissioners Rule: An analysis of the law and NRCP (panel
presentation and teaching)
9/19/14: A View from the Bench: An Interactive Discussion of Recent Nevada
Supreme Court Decisions (panel presentation and teaching)
10/16/14-10/16/14: 38th Annual Nevada Justice Association Convention including
presenting Top 10: Discovery Commissioners Answer Your Questions (panel
presentation and teaching)
10/29/14: An afternoon with the experts on Information Governance and e-
discovery (lecture and teaching)
11/12/14: Federal Practice (lecture)**

Attended various Inn of Court CLES: 3/11/14; 5/13/14; 6/3/14 (included Substance Abuse requirement); 12/9/14

Teaching presentations at various law firms on discovery matters: 6/9/14; 6/13/14 10/8/14

2013:

2/21/13-1/23/13: NITA Deposition Skills (lecture and teaching)

2/28/13: Federal Court practice (lecture)

3/28/13: Expert Disclosures (teaching)

4/5/13: Ethics of the Holocaust (lecture)

10/3/13-10/5/13: 37th Nevada Justice Association Convention, including presentation on discovery (lecture and panel presentation); included substance abuse requirement

12/10/13: Presentation on Discovery at Attorney General's Office in conjunction with Hartford Insurance Company (lecture and teaching)

Attended Various Inn of Court CLEs: 1/8/13; 4/9/13; 6/4/13; 11/13/13

Teaching presentations at various law firms on discovery matters: 1/17/13; 9/23/13; 11/6/13

2012:

1/18/12: Using Depositions at Trial: Making your trial prep work for you (lecture and teaching)

2/9/12-2/11/12: NITA Deposition Skills

4/9/12: Discovery presentation with Commissioner Beecroft (panel presentation and teaching)

5/6/12: Controlled Substances and Ethics (lecture at Touro University)

5/17/12: Use of Depositions at Trial (lecture and teaching)

10/12/12-10/14/12: 36th Annual Nevada Justice Association including lecture on discovery trends (lecture, panel presentation and teaching)

Attended Various Inn of Court CLEs: 4/10/12; 6/7/12; 11/13/12

Teaching presentations at various law firms on discovery matters: 2/3/12; 3/22/12; 6/13/12; 9/27/12

2011:

2/10/11-2/12/11: NITA Deposition Skills (lecture and teaching)

3/25/11: Bridging the Gap (lecture and teaching)

4/1/11: Ethics meets discovery (lecture and teaching)

4/7/11: How to avoid ethical pitfalls (panel presentation and teaching)

5/25/11: Life after the Moon Decision (panel presentation and teaching)

6/17/11: Deposition Dos and Don'ts (lecture and teaching)

6/21/11-6/22/11: State Bar of Nevada Annual Meeting including presentation on discovery (lecture and teaching)

10/5/11: The keys to successful NRCP 30(b)(6) Depositions: Notice and Preparation (lecture and teaching)

11/17/11-11/19/11: NITA Deposition Skills (Phoenix, AZ) (lecture and teaching)

Attended Various Inn of Court CLEs: 1/11/11; 5/24/11; 11/8/11

Teaching presentations at various law firms regarding discovery matters and ethical considerations in discovery: 1/19/11; 1/27/11; 5/6/11; 5/10/11; 5/12/11; 6/11/11; 8/11/11; 12/8/11

2010:

2/18/10-2/20/10: NITA Deposition Skills (lecture and teaching)

3/16/10: Discovery 2010 North and South (panel presentation and teaching)

3/23/10: Courtroom Etiquette (lecture and teaching)

6/23/10-6/25/10: State Bar of Nevada Annual Meeting, including presentation on discovery (lecture and teaching)

9/8/10: Discovery and Ethics: Disclosures, Withdrawal and Spoliation (panel presentation and teaching)

10/14/10-10/16/10: 34th Annual NJA Convention including presentation on discovery (lecture and teaching)

Attended Various Inn of Court presentations: 1/12/10; 2/9/10; 3/9/10; 4/6/10; 9/14/10; 10/12/10; 11/9/10

Teaching presentations at various law firms regarding discovery matters: 9/23/10; 10/19/10; 12/16/10

25. Do you have Professional Liability Insurance or do you work for a governmental agency?

25. I work for a governmental agency and do not carry liability insurance.

Business and Occupational Experience

26. Have you ever been engaged in any occupation, business, or profession other than a judicial officer or the practice of law? If yes, please list, including the dates of your involvement with the occupation, business, or profession.

26. I am also an author and have published two novels in 2013 and 2014 (see no.35 below). I continue to write.

27. Do you currently serve or have you in the past served as a manager, officer, or director of any business enterprise, including a law practice? If so, please provide details as to:
- a. the nature of the business,
 - b. the nature of your duties,
 - c. the extent of your involvement in the administration or management of the business,
 - d. the terms of your service,
 - e. the percentage of your ownership.

27. I served as a manager of the Las Vegas branch office of Lauria Tokunaga Gates & Linn from September 2004 until January 2007, when I became Discovery Commissioner.

- a. Law firm**
- b. Managed the office, including hiring and firing of personnel, managing day to day operations, and independently handling a number of professional negligence cases.**
- c. I was the day-to-day manager of a small branch office**
- d. I was a non-equity partner compensated based on my productivity**
- e. I did not have a percentage ownership, but was given a percentage of my profitability.**

28. List experience as an executor, trustee, or in any other fiduciary capacity. Give name, address, position title, nature of your duties, terms of service and, if any, the percentage of your ownership.

28. None.

Civic, Professional and Community
Involvement

29. Have you ever held an elective or appointive public office in this or any other state? Have you been a candidate for such an office? If so, give details, including the offices involved, whether initially appointed or elected, and the length of service. Exclude political affiliation.

29. No.

30. State significant activities in which you have taken part, giving dates and offices or leadership positions.

30. I served on the Board of Amazing Grace Ministry from 2004 until 2013, and was president during 2004-06. I remained an active board member until relatively recently. I was also active in the ABA/Young Lawyers Division for a number of years, during which I ran a national campaign and was elected as Assembly Clerk of the YLD. I subsequently became Assembly Speaker.

31. Describe any courses taught at law schools or continuing education programs. Describe any lectures delivered at bar association conferences.

31. I have given a number of lectures at bar association conferences. Most of these lectures have included relevant trends in discovery, based on updated rules of civil procedure, changes in case law and other ethical and practical considerations. Most recently, I presented at the Nevada Justice Association Annual Meeting, discussing recent amendments to the expert disclosure rules and the applicable recent case law.

I have also been a guest lecturer at a pre-trial discovery class at the UNLV Boyd School of Law on more than one occasion.

I served as a judge from 2007 to 2009 for Trial By Peers, a diversionary program run by the Clark County Bar Association for high school students who have received criminal citations.

In addition, I assisted in grading the Nevada Bar Examination from 2007 to 2012.

32. List educational, military service, service to your country, charitable, fraternal and church activities you deem significant. Indicate leadership positions.

32. See response to question 30, above, pertaining to Amazing Grace.

33. List honors, prizes, awards, or other forms of recognition.

33. I have received many meaningful forms of recognition over the years. In addition to what has been discussed above, I would mention the following:

1991: Outstanding Young Woman of America
2004: Martindale Hubbell AV Rating (formal plaque received in 2007)
2011: Bar Register of Preeminent Women Lawyers
2013: Vegas Top Lawyers 2013

34. Have you at anytime in the last 12 months belonged to or do you currently belong to any club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion, creed, national origin or sex? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and whether you intend to continue as a member if you are selected for this vacancy.

34. No.

35. List books, articles, speeches and public statements published, or examples of opinions rendered, with citations and dates.

35. I have written a number of articles over the years. I simply cannot remember or list them all. Nearly every CLE listed above where I either lectured or presented, was accompanied with written materials that have been submitted to the State Bar of Nevada, Clark County Bar Association or Nevada Justice Association. Fellow Commissioner Chris Beecroft and I co-authored an article for the "Communique" in May 2013, entitled "Required Expert Disclosures under Recent Amendments to NRC 16.1(a)(2)(B) and (C)."

I have also published two fiction novels:

***Vanquishing the Demon of Sloth* (Dorrance Publishing, 2013); and, *Vanquishing the Demon of Vanity* (Dorrance Publishing, 2014).**

36. During the past 10 years, have you been registered to vote? Have you voted in the general elections held in those years?

36. Yes. I have voted in the general elections held in those years.

37. List avocational interests and hobbies.

37. In addition to my writing, I am learning how to ski and golf—with varying levels of success. I am still committed to helping my friends at Amazing Grace Ministry, and I am active in Women's Bible Study.

Conduct

38. Have you ever been convicted of or formally found to be in violation of federal, state or local law, ordinance or regulation? Provide details of circumstances, charges and dispositions.

38. No.

39. Have you ever been sanctioned, disciplined, reprimanded, found to have breached an ethics rule or to have acted unprofessionally by any judicial or bar association discipline commission, other professional organization or administrative body or military tribunal? If yes, explain. If the disciplinary action is confidential, please respond to question 71.

39. No.

40. Have you ever been dropped, suspended, disqualified, expelled, dismissed from, or placed on probation at any college, university, professional school or law school for any reason including scholastic, criminal, or moral? If yes, explain.

40. No.

41. Have you ever been refused admission to or been released from any of the armed services for reasons other than honorable discharge? If yes, explain.

41. N/A

42. Has a lien ever been asserted against you or any property of yours that was not discharged within 30 days? If yes, explain.

42. No.

43. Has any Bankruptcy Court in a case where you are or were the debtor, entered an order providing a creditor automatic relief from the bankruptcy stay (providing in rem relief) in any present or future bankruptcy case, related to property in which you have an interest?

43. No.

Other

44. If you have previously submitted a questionnaire or Application to this or any other judicial nominating commission, please provide the name of the commission, the approximate date(s) of submission, and the result.

44. N/A

45. In no more than three pages (double spaced) attached to this Application, provide a statement describing what you believe sets you apart from your peers, and explains what particular education, experience, personality or character traits you possess or have acquired that you feel qualify you as a good district court judge. In so doing, address both the civil (including family law matters) and criminal processes (including criminal sentencing.)

45. See Attachment 45.

46. Detail any further information relative to your judicial candidacy that you desire to call to the attention of the members of the Commission on Judicial Selection.

46. I am familiar with the day-to-day operations of the Eighth Judicial District Court. I have had the pleasure of working with the current Court Administrator Steve Grierson, as well as other county personnel over the past eight years. I know whom to call to resolve a problem, and how to address administrative issues. I have the utmost respect for the Clark County employees who work hard every day at the Regional Justice Center to ensure that the members of the public are welcomed and provided with a safe and fair place to have their cases heard and resolved.

47. Attach a sample of no more than 10 pages of your original writing in the form of a decision, "points and authorities," or appellate brief generated within the past 5 years, which demonstrates your ability to write in a logical, cohesive, concise, organized, and persuasive fashion.

47. See Attachment 47.

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<p style="text-align: center;">Attachment A Employment History</p>
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Please start with your current employment or most recent employment, self employment, and Periods of unemployment for the last 20 years preceding the filing of this Application.

Current or Last Employer: Clark County Courts

Phone Number: 702 671-4486

Address: Regional Justice Center, 200 Lewis Avenue, 5th Floor, Las Vegas, NV 89155

From: January 2007 **To:** Present

Supervisor's Name: Hon. Elizabeth Gonzalez

Supervisor's Job Title: Presiding Civil Judge of the Eighth Judicial District Court

Your Title: Court Hearing Master (aka Discovery Commissioner)

Specific Duties: Oversee and manage civil discovery for the judges of the Eighth District Court, including by way of example conducting discovery and evidentiary hearings, taking impromptu conference calls to resolve discovery disputes which arise during on-going depositions, issuing Reports and Recommendations, signing Scheduling Orders

Reason for Leaving: N/A

Previous Employer: Lauria Tokunaga Gates and Linn

Phone Number: 702 387-8633

Address: 601 S. Seventh Street, Las Vegas, NV 89101

From: September 2004 **To:** January 2007

Supervisor's Name: N/A

Supervisor's Job Title: N/A

Your Title: Managing Non-equity Partner of the firm's Las Vegas office

Specific Duties: Managed a small branch office; handled cases from inception through the discovery process and trial and/or alternative dispute resolution

Reason for Leaving: Accepted position as Discovery Commissioner

Attachment A
Employment History Continued

Please start with your current employment or most recent employment, self employment, and periods of unemployment for the last 20 years preceding the filing of this Application.

Previous Employer: Broening Oberg Woods Wilson and Cass (fka The Law Offices of V. Andrew Cass; nka Lewis Brisbois Bisgaard and Smith, LLP)

Phone Number: 702 893-3383

Address: 6385 S. Rainbow Blvd., Suite 600, Las Vegas, NV 89118

From: January 1997 **To:** August 2004

Supervisor's Name: V. Andrew Cass

Supervisor's Job Title: Managing Partner

Your Title: Non-equity Partner

Specific Duties: Independently defended cases primarily in the area of professional negligence from inception through the discovery process and trial and/or alternative dispute resolution

Reason for Leaving: Opened Las Vegas office of Lauria Tokunaga Gates and Linn

Previous Employer: Galatz Earl and Bulla (fka Galatz Earl Williams and Bulla; fka Galatz Earl Smith and Williams; fka Galatz Earl Catalano and Smith)

Phone Number: The firm no longer exists. However, former partners Hon. Allan Earl (ret.) and Hon. Timothy C. Williams may be contacted. Specific contact information available upon request.

Address: N/A

From: September 1989 **To:** December 1996

Supervisor's Name: Neil Galatz (deceased); Hon. Allan Earl (retired District Court Judge)

Supervisor's Job Title: Managing Partners

Your Title: Associate Attorney; Non-equity Partner

Specific Duties: Conducted legal research, depositions, and trials; trial preparation, including discovery requests and responses, dispositive and discovery motions for plaintiffs and defendants (including the *Pepcon* litigation)

Reason for Leaving: Employment opportunity with Broening Oberg Woods Wilson and Cass

JUDICIAL APPLICATION OF BONNIE ANNE BULLA

ATTACHMENT 45

Since January of 2007 I have had the honor to serve as Discovery Commissioner for the Eighth Judicial District Court. The knowledge and experience I have acquired in this capacity over the past eight years sets me apart from my peers, and has prepared me well not only to be a district court judge, but to successfully make the transition.

1. The ability to make judicial decisions:

I know the importance of making judicial decisions in a timely manner despite the pressure of a heavy caseload. Over the course of the past eight years, I have made thousands of decisions resolving complex discovery issues in cases involving *inter alia* personal injury, business disputes, condemnation and eminent domain, assault and battery, single family residential construction defects, and medical malpractice. I typically conduct between fifty and fifty-five hearings per week. I also issue on average two hundred and fifty to three hundred scheduling orders per month. These orders determine the deadlines in a case, including the time allotted to conduct discovery, amend pleadings and add parties, initial and rebuttal expert disclosures, and dispositive motions, *e.g.* motions for summary judgment.

During hearings, I deal with matters such as whether a protective order should be put in place before documents are produced, or when video surveillance should be turned over to the adverse party. I also deal with whether parties have complied with the requirements of *NRCP 16.1*, and provide case management assistance to the Court by dismissing those cases where there has been a lack of such compliance.

I appreciate how essential it is to litigants to have timely resolution of issues so they can properly evaluate their cases and decide how best to proceed. I also understand the importance of making sound, well-reasoned decisions which enable the district court judge to have confidence in adopting the Commissioner's recommendations.

2. The ability to conduct evidentiary hearings:

As Discovery Commissioner, many of the evidentiary hearings I conduct involve whether spoliation of evidence has occurred. At these hearings witnesses are sworn in, exhibits marked and entered into evidence, and opening and closing statements made where appropriate. After the proceedings, I issue a Report and Recommendations setting forth my determinations. In appropriate situations, sanctions may be imposed. This process is similar to evidentiary hearings conducted at the District Court level, and also to the procedure utilized in non-jury trials..

3. I understand the importance of judicial demeanor:

Unfortunately, the discovery phase of a litigated case is often contentious. As Discovery Commissioner, I am regularly called upon to resolve hotly contested matters. I am mindful of the value of proper judicial demeanor and the role it plays in being a fair, effective judicial officer. I am committed to fostering civility in court proceedings. I believe this philosophy will enable me to be a more effective District Court judge.

4. I handle a wide variety of complex legal issues:

As an attorney, a substantial portion of my practice involved medical malpractice and professional negligence cases. These types of cases often involved complex legal issues and required a significant amount of preparation.

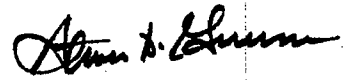
As Discovery Commissioner, I handle a wide variety of complex legal issues in many areas of the law. I work hard to make certain I am conversant with the applicable law in order to fairly resolve the issues before me. Because I do not have a law clerk, I conduct my own legal research. This has enabled me to further improve my knowledge and understanding of the law.

Although in my prior practice I did not handle family or criminal cases, as Discovery Commissioner I have on occasion handled Family Court discovery disputes. I also cover arraignment court from time to time, including taking pleas and imposing stipulated sentences. I enjoy new challenges and always do my utmost to be prepared to handle them.

5. I am able to teach and effectively communicate:

I regularly give CLEs to the legal community. I have always enjoyed public speaking and teaching courses on discovery and other law-related topics. Preparing and presenting CLEs has allowed me to become a more effective writer and communicator, skills which I believe are essential to being an effective District Court judge.

ATTACHMENT 47



CLERK OF THE COURT

DCRR

DISTRICT COURT

CLARK COUNTY, NEVADA

TOMORA REICHARDT, individual,

Plaintiff,

v.

CASE NO. A608169

DEPT NO. XXV

BLUE MARTINI LAS VEGAS, LLC, a
Nevada Limited Liability
Corporation, d/b/a BLUE MARTINI
LOUNGE and DOES I through X and
ROE CORPORATIONS I through X,
inclusive,

Defendants.

**DISCOVERY COMMISSIONER'S
REPORT and RECOMMENDATIONS**

Date of Hearing: August 23, 2012

Attorney for Plaintiff: G. Dallas Horton, Esq.
G. Dallas Horton & Associates

Attorney for Defendant: Brenda H. Entzminger, Esq.
Phillips Spallas & Angstadt

I.

FINDINGS

On August 23, 2012, the Discovery Commissioner conducted

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CLERK OF THE COURT

1
2 an Evidentiary Hearing on Plaintiff Tomora Reichardt's Motion
3 for Spoliation of Evidence. The primary basis of this motion
4 is Defendant Blue Martini Las Vegas, LLC's (hereinafter "Blue
5 Martini") failure to preserve video surveillance from a camera
6 capturing Plaintiff's fall, which occurred on March 9, 2009,
7 at Blue Martini.
8

9 By way of background, on March 9, 2009, Plaintiff was
10 dancing on a "display" (also referred to as a platform or
11 stage), permitted to be used for this purpose, when she fell
12 injuring herself. Initially, there was a police investigation
13 to determine if the Plaintiff was "pushed" from the display
14 thereby warranting a possible criminal indictment. After the
15 police reviewed the "videotape" of the incident, it was
16 determined that no battery occurred (Evidentiary Hearing
17 Transcript ("EHT") page 115, lines 4-7). Hence, no criminal
18 charges were forthcoming.
19

20 The criminal investigation in this case is relevant to
21 the preservation of the videotape for several reasons. First,
22 during the criminal investigation it was confirmed that video
23 surveillance capturing the Plaintiff's fall existed (EHT,
24 Exhibit "2"). Second, Blue Martini's management actually
25 reviewed the videotape with the police on March 9, 2009, and
26 therefore knew that video surveillance existed and that
27
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1
2 Plaintiff's fall occurred on the smaller of two displays (EHT,
3 p.50, lines 15-22; p.58, lines 10-12; p.59, lines 11-18; P.60,
4 lines 1-6).¹ Third, Blue Martini understood that the criminal
5 investigation regarding Plaintiff's fall was ongoing (EHT,
6 p.115, lines 14-19).
7

8 Plaintiff filed her Civil Complaint on January 19, 2010.
9 The Complaint indicates that she "slipped off a small elevated
10 stage..." (emphasis added) (see paragraph 8 of the Complaint).
11 Subsequently, and following a change in Plaintiff's counsel,
12 Plaintiff was permitted to amend her Complaint to alleged
13 negligence *per se* based on the inspection of the "display" at
14 issue. See the Honorable District Court Judge Linda Bell's
15 Decision and Order dated March 17, 2011. Further, Judge Bell
16 also denied Blue Martini's Motion for Summary Judgment on the
17 negligence *per se* claims and punitive damages indicating there
18 were sufficient questions of fact for the claims to be
19 considered by a jury. See Judge Bell's Decision and Order
20 filed May 23, 2011.
21

22 Until January 2012, during the course of discovery and
23 motion practice, the Court and the parties believed
24

25
26 ¹ The Discovery Commissioner remains somewhat concerned that Mr. Ascenzo failed to recall this incident at
27 the time of his deposition (EHT, p.58, lines 13-16). Apparently, he "refreshed" his memory after his deposition.
28 The Commissioner questions why this critical preparation was not completed before his deposition. Frankly, the
Commissioner also questions whether or not Mr. Ascenzo was forthcoming with his recollection or events at his
deposition or whether this was one more attempt by Blue Martini (at Mr. Ascenzo's expense because he forfeited
his credibility) to stonewall the truth: video surveillance existed that was not preserved.

1
2 Plaintiff's fall had occurred on a larger display adjacent to
3 the DJ booth and behind the main dance floor for which there
4 was no video. Consequently, everyone believed based on Blue
5 Martini's assurances that there was no video surveillance of
6 Plaintiff's fall. Experts had been retained by the parties to
7 inspect the larger display, twice, and expert reports were
8 prepared.
9

10 On January 17, 2012, Blue Martini deposed Katrina
11 Williams, a percipient witness, who confirmed that Plaintiff's
12 fall had occurred on a smaller display situated to the left of
13 the main bar area. Based on this, the Plaintiff moved to
14 reopen discovery. Plaintiff's counsel had requested Blue
15 Martini stipulate to the continuance so that the location of
16 Plaintiff's fall could be determined "with 100% certainty."
17 Blue Martini refused.
18

19 In addition, on or about January 16, 2012, Blue Martini
20 served its Eighth 16.1 Supplement. The Supplement included a
21 transcript of the 911 call placed by Plaintiff. For the first
22 time, Plaintiff became aware that the police had reviewed
23 video surveillance of the incident. According to the
24 transcript, Plaintiff fell off the stage while losing her
25 balance and pulled another patron off the display as she fell
26 (EHT, Exhibit "2").
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DISCOVERY
COMMISSIONER
EIGHTH JUDICIAL
DISTRICT COURT

So what was Blue Martini's motive? Was Blue Martini's failure to preserve the video surveillance of Plaintiff's fall done with the intent to harm Plaintiff? According to a witness

15

statement, Plaintiff was irate and failed to cooperate with Blue Martini (See EHT, Exhibit "3"). However, Plaintiff's failure to be charming and cooperative does not give Blue Martini the right to fail to preserve relevant evidence with a known claim pending, whether it be criminal or civil.

The Discovery Commissioner has no choice but to conclude that Blue Martini suppressed evidence with a desire to harm this Plaintiff and prejudice her case. Arguably, Plaintiff would have had had a more difficult time of proving liability falling from a large display versus a smaller display because of building code restrictions.⁶ Further, had the video surveillance been preserved it may have addressed certain issues that have arisen during this litigation: (1) whether Plaintiff was acting intoxicated; (2) whether Plaintiff continued to dance after her fall; (3) the extent of Plaintiff's injury after her fall; and, (4) Plaintiff's belligerence with Blue Martini's staff and others. The Discovery Commissioner suspects that appropriate disclosure of the video surveillance of Plaintiff's fall (if it had been preserved) may well have led to an earlier resolution of these issues. One can assume, based on Blue Martini's failure to

⁶ It should be noted, however, that Judge Bell has already permitted Plaintiff to amend her Complaint to add a *per se* negligence claim based on Plaintiff falling from the larger display.

DISCOVERY
COMMISSIONER
EIGHTH JUDICIAL
DISTRICT COURT

1
2 preserve the video surveillance and failure to even admit it
3 existed for years, that the surveillance would not have been
4 favorable to Blue Martini. Because of Blue Martini's
5 misrepresentations the parties spent nearly two years
6 litigating a case with the wrong facts. And, the Court spent
7 nearly two years shepherding this "wrong" case through the
8 judicial system.
9

10 The Discovery Commissioner concludes that Blue Martini's
11 failure to preserve the video surveillance of Plaintiff's fall
12 and failure to identify the correct location of Plaintiff's
13 fall was willful for the following reasons: (1) Blue Martini
14 failed to timely identify the correct display from which
15 Plaintiff fell, even though Blue Martini's managerial employees
16 knew the correct location of Plaintiff's fall on the date of
17 her fall; (2) Blue Martini continued to deny the existence of
18 the video surveillance that one of its manager actually
19 reviewed with the police the night of Plaintiff's fall; (3)
20 Blue Martini's continued to maintain the nonexistence of video
21 surveillance when at least one of its managerial employees knew
22 better. Blue Martini even proclaimed that one of its employees,
23 Charles Adams, who documented that "video avail" of Plaintiff's
24 fall existed, was "wrong." (See EHT, Exhibit "4").
25
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27 For these reasons, the Discovery Commissioner finds that
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2 the only reason Blue Martini continually failed to acknowledge
3 that video surveillance existed and to confirm the correct
4 location of Plaintiff's fall was to harm the Plaintiff.
5 Specifically, Blue Martini desired a competitive advantage in
6 this case. By not acknowledging that video surveillance
7 existed, Blue Martini apparently believed that it would not
8 have to acknowledge that it was not preserved. And without the
9 surveillance video of Plaintiff's fall, Blue Martini could
10 create whatever scenarios it desired to explain the events that
11 occurred on March 9, 2009, favorable to Blue Martini and
12 adverse to the Plaintiff.
13

14 It is also somewhat suspicious that Blue Martini refused
15 to grant an extension of the discovery deadlines when it became
16 apparent that there was a reasonable likelihood that
17 Plaintiff's fall had occurred at a different location. This
18 refusal, which the Discovery Commissioner believes was
19 unreasonable under the circumstances, further supports that
20 Blue Martini did not want additional discovery, which would
21 uncover the truth of the circumstances surrounding Plaintiff's
22 fall. Blue Martini's willful conduct in attempting to suppress
23 the truth about the existence of video surveillance and the
24 correct location of Plaintiff fall requires a harsher sanction
25 than a rebuttable presumption.
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2 informing the jury of the failure to make the
3 disclosure."

4 Blue Martini's failure to timely preserve the relevant
5 video surveillance or to timely acknowledge that surveillance
6 once existed but had not been preserved, violates Rule 37.
7 Blue Martini's additional failure of not correcting the
8 location of Plaintiff's fall, which they had knowledge of from
9 the time it happened, further violates Rule 37. These failures
10 qualify as failures to disclose. Importantly, the "incorrect"
11 disclosures that were made, qualify as both false and
12 misleading. Further, Blue Martini's conduct caused significant
13 delays in the adversarial process by prolonging discovery and
14 delaying the trial of this matter by at least one year. Blue
15 Martini's lack of candor about its knowledge of all facts
16 related to Plaintiff's fall on March 9, 2009, cannot be
17 justified. Such conduct must be sanctioned. Parties similarly
18 situated as Blue Martini must be deterred from engaging in
19 similar conduct in the future. See *Young v. Johnny Ribeiro*
20 *Bldg., Inc.*, 106 Nev. 88, 93, 787 P.2d 777, 780 (1990).
21

22
23 II.

24 R E C O M M E N D A T I O N S

25 Based on the foregoing, the Discovery Commissioner makes
26 the following recommendations:
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1. The District Court Strike Defendant's Answer and affirmative defenses on liability, only, allowing the case to proceed to trial on damages, only.
2. The Plaintiff will submit to the Discovery Commissioner her experts' fees and costs associated with the third inspection of Blue Martini's premises. Based on submission of the appropriate documentation, the Discovery Commissioner will award Plaintiff her experts' fees and costs associated with the third inspection.
3. Finally, Plaintiff's counsel is to submit their attorneys' fees and costs for preparing and attending the Evidentiary Hearing on August 23, 2012. Upon receiving the appropriate documentation, the Discovery Commissioner will award Plaintiff her attorneys' fees and costs associated with preparing for and attending the Evidentiary Hearing.

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4. Plaintiff's counsel is to ensure that the supporting documentation for the fees and costs awarded in subsections (2) and (3) above are submitted within ten (10) days after being served with this Report and Recommendations so that a separate Report and Recommendations awarding these fees and costs can be prepared by the Discovery Commissioner.

The Discovery Commissioner, having reviewed any materials proposed in support thereof, hereby submits the above recommendations.

DATED this 19 day of October, 2012.


DISCOVERY COMMISSIONER